IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

TUESDAY, THE 13TH FEBRUARY 2007 / 24TH MAGHA 1928

WP(C).No. 5010 of 2007(U)

OS.178/2003 of I ADDL.SUB COURT, KOZHIKODE

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PETITIONER:

HAMZA.P., ROOM NO.G-19, MOFFUSSIL
BUSSTAND BUILDING, KOZHIKODE
REP. BY SARMATH KHAN, S/O K.P.ALI,
P.O.VENGERY, THANEERPANTHAL,
KOZHIKODE DISTRICT.

BY ADV. SRI.P.SANJAY
SRI.M.MUHAMMED SHAFI

RESPONDENT:

THE CORPORATION OF CALICUT REP. BY
SECRETARY, NAGARAM AMSOM DESOM,
KOZHIKODE DISTRICT.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.P. Balachandran, J.

W.P.(C)No. 5010 of 2007 U

JUDGMENT

The petitioner filed O.S.No.178/03 before the Additional Sub Court-I, Kozhikode for permanent injunction restraining the respondent/Corporation of Calicut from evicting him from the shop room bearing No.G-19 of the Muffussil Bus Stand Building, Kozhikode. That suit was dismissed for default. It is submitted that he filed I.A.No.5/07 for restoration of the said suit and that it is posted to 2.3.2007. It is further submitted that pursuant to receipt of Exhibit P2 notice of eviction dated 19.1.2007, he again filed a petition in the court below for an order to maintain the status quo till the disposal of I.A.No.5/07 and that it is posted to 19.2.2007.

2. The prayers in this writ petition are the following:

> "i. to issue a writ of certiorari quashing Exhibit P2 demand notice dated 19.1.2007 issued by the respondent.
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> ii. to issue a writ of mandamus directing the respondent and their men not to evict the petitioner from the shop Room No.6-19 of the Moffussil Bus Stand Building, Kozhikode pending disposal of Exhibits P1 and P3 petitions before the Hon'ble Additional Sub Court, Kozhikode.
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> iii. and to issue such other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case."

The petitioner cannot aspire to get orders from this Court when he has been negligent in prosecuting his suit in the trial court. However, interim stay of eviction, pursuant to Exhibit P2, is granted for a period of two weeks. The petitioner may, if so advised, get appropriate orders from the trial court, where the restoration application is pending, within that time.

With this direction, this writ petition is disposed of.

13th February, 2007 (K.P.Balachandran, Judge)

tkv